

ORIGINAL



~~MEMORANDUM~~

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TO: Docket Control Center

2006 SEP 26 P 4:40

FROM: Ernest Johnson
Director
Utilities Division

AZ CORP COMMISSION
DOCUMENT CONTROL

Arizona Corporation Commission
DOCKETED

SEP 26 2006

THRU: Matthew Rowell
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Barbara Keene
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MR for BK

DOCKETED BY

NR

DATE: September 26, 2006

RE: TUCSON ELECTRIC POWER COMPANY - REQUEST FOR WAIVER OF
REPORTING REQUIREMENT (DOCKET NO. E-01933A-97-0096)

Introduction

Tucson Electric Power Company ("TEP" or "the Company") on March 13, 2006, requested an order from the Commission waiving a reporting requirement contained in a prior Commission Order. TEP was required by Decision No. 60221, May 27, 1997, to file reports with Staff describing projects in which it is considering investing. Later the same year, on November 25, 1997, the Commission issued Decision No. 60480 approving the application of TEP to organize a public utility holding company subject to certain conditions. UniSource Energy Corporation ("UniSource"), the holding company that was formed, files similar information annually with the Commission pursuant to R14-2-805 of the Arizona Administrative Code ("A.A.C.") and under item (27) of Attachment A in Decision No. 60480. The basis for TEP's waiver request is that TEP's investment considerations are already reported in UniSource's other filings. The Company, therefore, believes it should no longer be required to continue TEP's separate reporting required by Decision No. 60221.

Analysis

In discussions with Staff, the Company noted that such investment has not been done at the TEP level since the creation of the holding company in 1997, and that it is highly unlikely that TEP would invest in diversified interests while the holding company exists. One of the conditions TEP proposed and the Commission adopted in Decision No. 60480 (Attachment A, item (4)), however, was that "any business that TEP finds to be necessary, reasonably incidental or economically appropriate to utility operations will remain within TEP and its subsidiaries." It

appears clear to Staff, however, that such activity within TEP or its subsidiaries would be required to be reported by TEP's holding company, UniSource, under A.A.C. R14-2-805 as well as under item (27) of Appendix A of Decision No. 60480, so that the Commission could determine if the business activity was appropriately located within TEP or its subsidiaries.

Decision No. 60221 specifically requires TEP "to file with Staff, subject to a confidentiality agreement, reports on January 1 and July 1 of each year, including the projects in which it is considering investing so that Staff can act more quickly if expedited actions are required." Arizona Administrative Code R14-2-805 requires UniSource to file "a description of diversification plans for the current calendar year that have been approved by the Board of Directors," on April 15 of each year. This filing is required to include "a description of plans for the utility's subsidiaries to modify or change business activities, enter into new business ventures or to acquire, merge or otherwise establish a new business entity." Additionally, item (27) of the conditions TEP and the Commission agreed to in Attachment A of Decision No. 60480 states that the holding company, TEP, and/or sister companies will provide documents to the Utilities Division Staff on an annual basis containing, among other requirements, "All new, revised and updated strategic business plans for the Holding Company, TEP, and each sister company."

The holding company requirements appear to Staff to be a sufficient replacement of TEP's reporting obligation under Decision No. 60221, except that the holding company requirements mandate annual reporting where Decision No. 60221 requires reporting twice a year. Staff's research revealed that the twice annual reporting required of TEP under Decision No. 60221 has not been received in many years, most likely not since 1997, and that those who currently receive such information under A.A.C. R14-2-805 consider that annual reporting is sufficient for the purpose of monitoring the Company's investment considerations.

Recommendation

Staff recommends that TEP be granted a waiver of its obligation under Decision No. 60221 (p. 6, line 26 through p.7, line 2) to report the projects in which it is considering investing to the Commission on January 1 and July 1 of each year.

EGJ:JDA:lhbm

cc: Brian K. Bozzo, Compliance and Enforcement